IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 35476 of 2007(W)

PETITIONER:

MUJEEBUR RAHUMAN.J.K.,
JUNIOR HEALTH INSPECTOR GRADE-II,
SANATORIUM FOR CHEST DISEASES, PULAYANARKOTTAH,
RESIDING AT BUSHRA MANZIL, SANTHIVILA,
NEMOM P.O., THIRUVANANTHAPURAM-20.

BY ADV. SRI.BRIJESH MOHAN
SMT.RESMI G. NAIR

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY**
SECRETARY TO GOVERNMENT, HEALTH AND FAMILY
WELFARE DEPARTMENT, GOVERNMENT SECRETARIAT,
TRIVANDRUM.

2. **THE DIRECTOR OF HEALTH SERVICES,**
DIRECTORATE OF HEALTH SERVICES,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

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W.P.(C)No. 35476 of 2007

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Dated this the 10th day of December 2007

JUDGMENT

The petitioner is working as a Junior Health Inspector Grade II. According to him, he is qualified to be appointed as a Micro Biologist in the Government Analytical Laboratories under the Health Services Department. Method of appointment fixed by the first respondent as per Ext.P2 enables direct recruitment after suitable notification. Qualifications are prescribed as per Ext.P3. Ext.P4 circular was issued by the second respondent inviting applications from among qualified departmental candidates. Petitioner applied for the post of Micro Biologist, which was recommended by the second respondent as per Ext.P5. Apparently, pending consideration of Ext.P5, Ext.P6 notification has been issued inviting applications from the open market. Petitioner contends that even if the recruitment contemplated under Ext.P2 is from the open category, there is nothing which prevents in-service candidates also from applying in terms of Ext.P2. In the circumstances, the recommendation made in Ext.P5 need only be considered as forwarding of an application pursuant to Ext.P6 notification. The

method of appointment does not prohibit in-service candidates from applying on a par with the other eligible candidates in the open category. There is no reason why the petitioner's application should also not been considered as such.

2. In the circumstances, the writ petition is disposed of directing the first respondent to take a decision on Ext.P5. If there is no rule currently in force preventing an in-service candidate from applying for the post of Micro Biologist on a par with the open market candidate, then the petitioner's application recommended under Ext.P5 should also be considered as such. Subject to eligibility, the petitioner may also be considered for appointment to the post of Micro Biologist on contract basis.

V.GIRI, JUDGE

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